

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING**

**DIVISION OF PROFESSIONAL REGULATION**

**BOARD OF EXAMINERS OF HOISTING ENGINEERS**

**1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room**

**Cranston, RI 02920**

**TUESDAY, May 8, 2012**

**10:00am**

**In attendance:**

**Brian Iannuccillo**

**James White**

**James Woloohojian**

**Ellery Wood, Jr.**

**Not in attendance: Joseph Graziano**

**Also in attendance: David Rodrigues, Chief Hoisting Engineer  
Investigator**

**Benjamin Copple, Legal Counsel**

**1. - Call to Order:**

**The meeting was called to order at 10:05 am by James Woloohojian.**

**2. - Conflict of Interest:**

**Benjamin Copple addressed the Board regarding compliance with**

**conflict of interest requirements and recusal.**

**3. - Approval of Minutes:**

**A motion was made by Ellery Wood to approve the minutes of the March 13, 2012 meeting; seconded by James White and passed unanimously by the Board.**

**4. - Violation Appeal Hearings:**

**At the start of the hearings there was no representative present for the respondent, MJM Construction Corporation. USPS Tracking confirmations were entered as Exhibit A (notice for Violation 4226) and Exhibit B (notice for Violation 4225). David Rodrigues, Chief Hoisting Engineer Investigator, was sworn in for testimony. After confirming that MJM Construction Corporation was given notice of today's hearing the hearing began. At 10:23am Manuel Bugginga, owner of MJM Construction Corporation arrived. The Board has a discussion. Manuel Bugginga, owner of MJM Construction, is sworn in. Benjamin Copple, Legal Counsel, addressed the Board. The Board has a discussion. Legal Counsel recommends that the Board move to vacate the prior testimony and commence the hearing anew. A motion was made by James White to start the procedure all over again and rehear testimony already heard; seconded by Ellery Wood and passed unanimously by the Board. The case was recalled.**

**MJM Construction Corporation, Inc. (Viol # 4225): James Woloohojian read the violation:**

**Violation 4225; Dated 3/22/12; Violator: MJM Construction Corporation, Inc., PO Box 531, West Bridgewater, MA 02379**

**Location of Violation: Herb Chambers Auto Dealership, 1511 Bald Hill Rd., Warwick, RI**

**Violation: On Wednesday, March 14, 2012, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Ernesto B. Pacheco, an employee of MJM Construction Corp., Inc., P.O. Box 531, West Bridgewater, MA 02379, operating a hydraulic excavator without a valid RI Hoisting Engineer's License at the above location. According to RIGL 28-26-12 "Investigation and Prosecution of Violation", this is (1) one violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".**

**David Rodrigues, Chief Hoisting Engineer Investigator, and Manuel Bugginga, owner of MJM Construction Corporation, Inc., are sworn in for testimony. David Rodrigues provides testimony and submits evidence. Evidence is entered into the record: Exhibit C – a copy of Ernesto Pacheco's driver's license; Exhibit D – hoisting exam results for Ernesto Pacheco (2 pages); Exhibit E – photo of equipment used by Ernesto Pacheco; Exhibit F – a copy of David Rodrigues' phone log; Exhibit G – a copy of RI Hoisting license for respondent, Manuel Bugginga, owner of MJM Construction Corporation; and Exhibit H; a copy of RI Hoisting license for MJM Construction Corporation employee, Peter McClelland, who was not on site at the time of the investigation. All exhibits were previously marked. By general consent of the Board the exhibits are entered into the record. The**

**Board questions Mr. Rodrigues. Manuel Bugginga, owner of MJM Construction Corporation, Inc., provides testimony. The Board questions Mr. Bugginga.**

**A motion was made by Ellery Wood that Violation 4225 did occur on March 14, 2012; seconded by Brian Iannuccillo and passed unanimously by the Board.**

**Regarding the requested penalty of \$600.00, based on testimony given, facts and evidence, a motion was made by James White to increase the fine to \$1,150.00; seconded by Ellery Wood. James White and Ellery Wood voted in the affirmative. Brian Iannuccillo opposed. James Woloohojian also voted in the affirmative. The motion carries.**

**The recommendation of the Board will be forwarded to the Director.**

**MJM Construction Corporation, Inc. (Viol # 4226): James Woloohojian read the violation:**

**Violation 4226; Dated 3/22/12; Violator: MJM Construction Corporation, Inc., PO Box 531, West Bridgewater, MA 02379**

**Location of Violation: Herb Chambers Auto Dealership 1511 Bald Hill Rd., Warwick, RI**

**Violation: On Wednesday, March 14, 2012, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Wayne Travers, an employee of MJM Construction Corp., Inc., P.O. Box 531, West**

**Bridgewater, MA 02379, operating a skid steer loader without a valid RI Hoisting Engineer's License at the above location. According to RIGL 28-26-12 "Investigation and Prosecution of Violation", this is (1) one violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".**

**Parties are still sworn in. David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony. Evidence is submitted. A copy of Wayne Travers Massachusetts Hoisting Engineer license – Exhibit A; documentation verifying Mr. Travers did not appear for his scheduled exam on October 26, 2011 – Exhibit B; photograph of skid steer loader Mr. Travers was operating – Exhibit C; and photograph of front end loader parked in close proximity and running – Exhibit D. The Board questions Mr. Rodrigues.**

**Manuel Bugginga, owner of MJM Construction Corporation, Inc., is questioned by the Board and provides testimony.**

**A motion was made by Ellery Wood that Violation 4226 did occur; seconded by James White and passed unanimously by the Board.**

**A motion was made by James White to uphold the penalty of \$600.00 as recommended; seconded by Ellery Wood and passed unanimously by the Board.**

**The recommendation of the Board will be forwarded to the Director.**

**End of hearings**

**5. - Adjournment:**

**A motion to adjourn was made by Ellery Wood. Hearing no objection, the meeting adjourned at approximately 11:08am.**

**The next meeting is scheduled for Tuesday, June 12, 2012 at 10:00 am.**